

AO 91 (Rev. 11/11) Criminal Complaint

UNITED STATES DISTRICT COURT

for the

District of New Mexico

United States of America

v.

David AGUILAR

Case No. 23-186 MJ

Defendant(s)

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief.

On or about the date(s) of January 25, 2023 in the county of Dona Ana in the
District of New Mexico, the defendant(s) violated:

Code Section

18 U.S.C. Section 922(g)(1)

Offense Description

Possession of a firearm or ammunition by a person convicted in any court of
a crime punishable by imprisonment for a term exceeding one year

This criminal complaint is based on these facts:

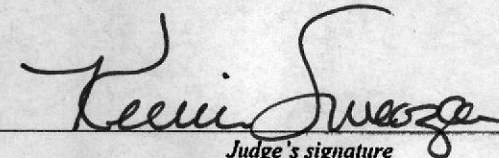
See attached affidavit

☒ Continued on the attached sheet.


Complainant's signature

Marcus Robinson, ATF Special Agent

Printed name and title

Sworn to by telephone before me and signed in my presence.Date: 02-01-2023


Judge's signature

City and state: Las Cruces, NM

Kevin R. Swazey, US Magistrate Judge

Printed name and title

CRIMINAL COMPLAINT - CONTINUED

UNITED STATES OF AMERICA

V.

David AGUILAR

AFFIDAVIT

1. Your Affiant, Marcus Robinson, is a Special Agent (SA) with the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) and has been so employed since April 24, 2022. Prior to April, your Affiant was employed by the Bureau of Diplomatic Security (DS) as a Criminal Investigator for nine years. As part of the training to become an ATF Special Agent, your Affiant attended six months of specialized training sponsored by the Federal Law Enforcement Training Center in Glynco, Georgia. As a result of this training, your Affiant has been certified as a federal investigator and has received specific training involving violations of federal laws. Your Affiant has also received ATF specific training in the determination of probable cause and in the use of warrants and complaints to enforce federal firearms laws. Your Affiant is currently assigned to the Las Cruces, New Mexico Field Office.
2. Your Affiant, being duly sworn, states the following to be true and correct to the best of his knowledge and belief based upon his personal observations and from information provided by knowledgeable law enforcement agents and officers who are involved in the investigation of **David AGUILAR**. The facts outlined in this narrative are not meant to be a complete narrative of all that has occurred in connection with this investigation but are only a summary of facts necessary to set forth probable cause in support of the criminal complaint and does not purport to set forth all the Affiant's knowledge regarding this investigation.

RELEVANT STATUTES AND DEFINITIONS

1. As a result of my training and experience as an ATF Special Agent, I am familiar with federal criminal laws and know that it is a violation of Title 18 United States Code § 922(g)(1), where it is unlawful for a person convicted in any court of a crime punishable by imprisonment for a term exceeding one year to possess a firearm and/or ammunition.

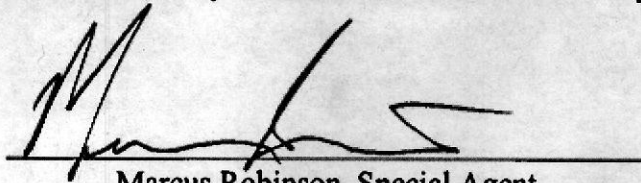
CRIMINAL COMPLAINT - CONTINUED

OVERVIEW OF THE INVESTIGATION

2. On January 30, 2023, your Affiant, acting on information provided by the Las Cruces Police Department, opened an investigation into the illegal possession of a firearm by David AGUILAR (from this point on will be referred to as AGUILAR), a convicted felon.
3. On or about January 25, 2023, members of the Las Cruces Police Department responded to a report of a gunshot victim at an apartment in Las Cruces, New Mexico. Upon arrival, officers of the Las Cruces Police Department located a deceased victim of a single gunshot wound to the head. A black 12-gauge shotgun was located on the bedroom floor next to the victim. Members of the Las Cruces Police Department determined the shotgun was consistent with the visible appearance of wound damage suffered by the victim.
4. After the scene was secure, members of the Las Cruces Police Department interviewed a neighbor, who had called 911 related to the incident. The neighbor stated that he/she went to the victim's apartment after hearing sounds of an argument followed by a loud bang. The neighbor said that the reason he/she went to check on the victim was because he/she knew the victim and AGUILAR had previous arguments and altercations. The neighbor stated that AGUILAR answered the door holding a black 12-gauge shotgun and asked the neighbor to dial 911 because the victim had shot herself. The neighbor returned to his/her residence to dial 911, but when he/she returned to the victim's apartment, they saw AGUILAR fleeing the scene.
5. Following the interview of the neighbor, members of the Las Cruces Police Department apprehended AGUILAR. AGUILAR was advised of his Miranda rights, waived his rights, and agreed to speak with police officers. AGUILAR stated he had been in a relationship with the victim for seven years. AGUILAR claimed that he and the victim had gotten into an argument in the bedroom and the victim reached over to move the shotgun. AGUILAR stated that the shotgun then became the focus of the argument and both he and the victim began to physically fight over the shotgun. Initially, AGUILAR claimed to have grabbed the shotgun by the sling. However, when demonstrating his handling of the shotgun, AGUILAR demonstrated handling the firearm in a common position for firing. AGUILAR demonstrated to members of the Las Cruces Police Department standing over the victim's body with the muzzle pointed at the victim. At that time, AGUILAR claimed a round was accidentally discharged. AGUILAR stated that he fled the scene after the initial interaction with the neighbor because he knew he was a convicted felon.
6. Your Affiant reviewed the Judgment and Order Suspending Sentence issued by the Third Judicial District, Dona Ana County, New Mexico, pursuant to a guilty plea by AGUILAR on February 10, 2016, to the felony charges of Armed Robbery and Attempted Armed Robbery in Case Number: D-307-CR-201500499. AGUILAR was sentenced to a total of nine years imprisonment to be followed by two years of parole.

CRIMINAL COMPLAINT - CONTINUED

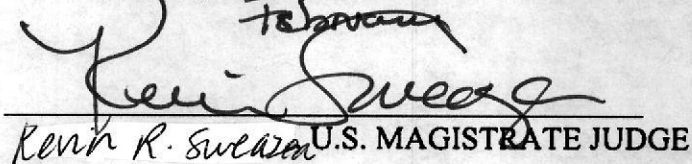
7. Based on your Affiant's training, professional and personal experience, your Affiant has concluded that the Remington, model 870, 12-gauge shotgun bearing serial number RS92998X—which was the firearm used and possessed by AGUILAR on January 25, 2023—was not manufactured in the state of New Mexico. Specially, there are no Remington firearms manufactured in the state of New Mexico. Accordingly, the shotgun had to travel in interstate commerce to be present in New Mexico.
8. This violation occurred in the city of Las Cruces, County of Dona Ana, in the District of New Mexico.
9. This complaint has been reviewed by Assistant United States Attorney Maria Armijo.



Marcus Robinson, Special Agent
Bureau of Alcohol, Tobacco, Firearms and Explosives

Subscribed and sworn to before-

by telephonic
me this 4 day of January, 2023



Kevin R. Swearing U.S. MAGISTRATE JUDGE